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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK**

| | | |
|-------------------------------------|---|--|
| LEIGHTON TECHNOLOGIES LLC, |) | |
| |) | |
| Plaintiff, |) | Case No. 04-cv-02496 (CM)(LMS) |
| |) | |
| v. |) | PLAINTIFF AND COUNTERCLAIM |
| |) | DEFENDANT LEIGHTON |
| |) | TECHNOLOGIES LLC'S MOTION FOR |
| OBERTHUR CARD SYSTEMS, S.A., |) | LEAVE TO FILE AMENDED ANSWER TO |
| OBERTHUR CARD SYSTEMS, |) | COUNTERCLAIMS, AFFIRMATIVE |
| OF AMERICA CORPORATION |) | DEFENSES |
| |) | |
| Defendants. |) | |
| |) | |
| OBERTHUR CARD SYSTEMS, S.A., |) | |
| OBERTHUR CARD SYSTEMS |) | |
| OF AMERICA CORPORATION |) | DEMAND FOR JURY TRIAL |
| |) | |
| Counterclaim Plaintiffs, |) | |
| |) | |
| v. |) | |
| |) | |
| LEIGHTON TECHNOLOGIES LLC, |) | |
| GENERAL PATENT CORPORATION |) | |
| INTERNATIONAL, |) | |
| GENERAL PATENT CORPORATION, |) | |
| AND IP HOLDINGS LLC, |) | |
| |) | |
| Counterclaim Defendants. |) | |
| |) | |

Pursuant to Rule 15(a) and 16(b) of the Federal Rules of Civil Procedure, Plaintiff and Counterclaim Defendant Leighton Technologies LLC (“Leighton”) hereby moves to amend its Answer to Counterclaims, Affirmative Defenses to include the affirmative defense of laches. Attached as Exhibit 1 is Leighton’s proposed Amended Answer to Counterclaims, Affirmative Defenses.

As a result of recent activities in this case, Leighton has been informed that Defendants Oberthur Card Systems, S.A. and Oberthur Card Systems of America Corporation (collectively “Oberthur”) intend to argue that the patents-in-suit are invalid under 35 U.S.C. § 102(f) and/or that inventorship of the patents-in-suit should be corrected under § 256 because two Motorola employees, Jean-Marc Delbecq and Noel Eberhardt, invented the subject matter claimed in the patents-in-suit. Leighton should be permitted to argue at trial that Oberthur is barred by the affirmative defense of laches from asserting these positions.

During the course of discovery in this case, between July 23, 2004 and July 28, 2006, Leighton specifically asked questions by interrogatory, document requests and deposition to elicit the basis for Oberthur’s defenses. At no time during discovery did Oberthur indicate that it intended to claim that Mr. Delbecq and Mr. Eberhardt were the true inventors of the patents-at-issue. In fact, when specifically asked at his deposition whether he claimed to be an inventor of the patents-in-suit, Mr. Delbecq, one of the purported Motorola inventors, replied that he did not. Yet at the evidentiary hearing on November 5-6, 2007 and most recently in a three thousand page document production served by Oberthur on February 15, 2008, it has become clear that both Mr. Delbecq and Mr. Noel Eberhardt claim to be the inventors of the inventions in the Leighton patents.

Leighton recently learned of Oberthur's invalidity allegations and if Leighton was barred from amending its pleadings it would be unduly prejudiced. Therefore good cause exists under FED. R. CIV. P 16(b) to permit Leighton to amend its Answer to Counterclaims, Affirmative Defenses to include laches. Further, Leighton's proposed modification to include the affirmative defense of laches to bar Oberthur's newly raised allegations will bring the form of the pleadings into conformity with the parties' understanding of the issues of the case. Moreover, Oberthur will not be prejudiced by the amendment.

For the foregoing reasons, and for the reasons provided in Leighton's Memorandum in support of this Motion, including the accompanying Declaration of Mr. Robert A. Gutkin, Leighton requests that the Court grant this Motion for Leave to File an Amended Answer to Counterclaims, Affirmative Defenses. A Proposed Order has also been lodged herewith.

Dated: March 27, 2008

SUTHERLAND ASBILL & BRENNAN LLP

/s/ Robert A. Gutkin

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